



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Transferred Service Members--
Temporary Lodging Expenses
File: B-221732
Date: April 10, 1987

DIGEST

A statute enacted in 1981 provides that a member of the uniformed services who is ordered to make a permanent change-of-station move may be allowed up to "four days" of expenses "incurred by the member and the member's dependents" while occupying temporary quarters. A proposal may be approved for the issuance of new regulations under that statute which would authorize service members up to 4 calendar days of temporary lodging expense allowances for themselves, and up to 4 separate days of allowances on behalf of their dependents, subject to a maximum limit on reimbursement of \$440. -

DECISION

The question presented is whether a proposal to allow service members up to 4 calendar days of temporary lodging expense allowances for themselves, and up to 4 additional calendar days of temporary lodging expense allowances on behalf of their dependents, is permissible under the authority of the statute which provides that service members ordered to make a permanent change-of-station move may be allowed up to "four days" of subsistence expenses "incurred by the member and the member's dependents" while occupying temporary quarters.^{1/} We conclude that the statute may be implemented in the manner proposed.

BACKGROUND

Section 404a of title 37, United States Code, provides that:

"(a) Under regulations prescribed by the Secretaries concerned, a member of a uniformed service who is ordered to make a change of permanent station--

^{1/} This action is in response to a request for a decision received from the Chairman of the Per Diem, Travel and Transportation Allowance Committee.

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"(1) from any duty station to a duty station in the United States (other than Hawaii or Alaska); or

"(2) from a duty station in the United States (other than Hawaii or Alaska) to a duty station outside the United States or in Hawaii or Alaska;

"may be paid or reimbursed for subsistence expenses actually incurred by the member and the member's dependents while occupying temporary quarters incident to that change of permanent station. In the case of a change of permanent station described in clause (1) of this subsection, the period for which such expenses may be paid or reimbursed may not exceed four days. In the case of a change of permanent station described in clause (2) of this subsection, the period for which such expenses may be paid or reimbursed may not exceed two days and such payment or reimbursement may be provided only for expenses incurred before leaving the United States (other than Hawaii or Alaska).

* * * * *

"(c) A member may not be paid or reimbursed more than \$110 a day under this section."

Implementing regulations adopted through action of the Per Diem, Travel and Transportation Allowance Committee are currently contained in Part H of Chapter 5, Volume 1 of the Joint Federal Travel Regulations (JFTR, para. U5700-U5710). Concerning the number of days a service member may be paid the temporary lodging expense allowance, the regulations authorize payment for up to 4 days for a permanent change-of-station move from any duty station to a duty station in the United States, other than Hawaii or Alaska. 1 JTR, para. M4601. If the permanent change of station is from a duty station in the United States (other than Hawaii or Alaska) to a duty station outside the United States or in Hawaii or Alaska, the temporary lodging expense allowance is only authorized for up to 2 days. JFTR, para. U5705. The regulations further provide:

"* * * A member may not be paid or reimbursed more than a combined total of \$110 per day under this Part for temporary lodging expenses [TLE] incurred by the member and/or dependents. The period of time allowed (two or four days) will begin for the

member and all dependents when either the member or any dependent begins use of temporary quarters for which TLE is claimed. The time period will run concurrently for the member and all dependents. The member may occupy temporary lodgings at one location while the dependents occupy temporary lodgings at another location, however, the temporary lodgings must be occupied on the same days. For example if the member claims TLE for temporary lodgings occupied for four days from 1 to 4 November at one location, there is no entitlement to TLE for the dependents at another location unless the dependents occupied temporary lodgings on any day(s) from 1 through 4 November. If the member and dependents occupy temporary lodgings on different days, the member may elect the days for which TLE is claimed." JFTR, para. U5710.

Thus, under the current regulations, service members are allowed a maximum of up to 4 days' payment of the temporary quarters expense allowance. The days for which the allowance is claimed need not be consecutive, but each day's payment covers the concurrent expenses of the member and all dependents. Although service members may occupy temporary lodgings at one location while one or more of their dependents occupy temporary lodgings at another location, the temporary lodgings must be occupied on the same calendar day or days in order for service members to be eligible for reimbursement of both their own expenses and the expenses of their dependents.

The Chairman of the Per Diem, Travel and Transportation Allowance Committee indicates that a proposal has been advanced that the regulations be changed, and the Chairman requests our decision on the question of whether the statutory provisions of 37 U.S.C. § 404a are broad enough to permit the regulations to be changed to authorize service members reimbursement of up to \$110 per day for temporary lodging expenses incurred by them and by their dependents when the member and a dependent occupy temporary lodgings on different calendar days. The Chairman indicates that the change contemplated by this proposal would authorize reimbursement for the combined temporary lodging expenses, not to exceed a total of \$110 per day, incurred by a service member on the first day (assume calendar day November 1) the member personally occupied temporary lodgings, and by a dependent on the first day (assume calendar day November 20) that particular dependent occupied such lodgings. Reimbursement for each additional day would be allowed in the same manner.

As we understand the proposal, it would authorize reimbursement of expenses up to a total amount of \$440 when service members and their dependents occupy temporary quarters during different 4-day intervals. A hypothetical case based on the Chairman's description could apparently involve these circumstances:

	<u>1st Day Expenses</u>	<u>2d Day Expenses</u>	<u>3d Day Expenses</u>	<u>4th Day Expenses</u>
Member	Nov. 1 \$ 60	Nov. 2 \$ 60	Nov. 3 \$ 60	Nov. 4 \$ 60
Depend- ents	Nov. 20 70	Nov. 21 70	Nov. 22 70	Nov. 23 70
	<hr/>	<hr/>	<hr/>	<hr/>
Total Expenses	130	130	130	130
Max. allowable	110	110	110	110

In this hypothetical example the service member, under the proposed amendment to the regulations, would be allowed 4 calendar days of temporary lodging expenses for himself for the period from November 1 to November 4, and 4 additional - calendar days of expenses on behalf of his dependents for the period from November 20 to November 23. November 1 and 20 would be counted as a single "day" for reimbursement entitlement purposes, however, and consequently reimbursement would be limited to \$110 for that "day." Through the use of this method of reimbursement, the member would be paid 4 "days" of temporary quarters expenses at the maximum daily rate of \$110, in the total amount of \$440.

ANALYSIS AND CONCLUSION

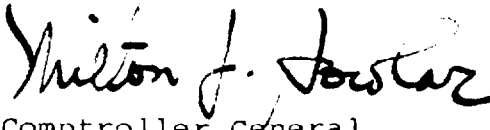
Statutory authority for the temporary lodging expense allowance in question was added to the United States Code by the Uniformed Services Pay Act of 1981.^{2/} The wording of the statutory provision, 37 U.S.C. § 404a, quoted above, directs that the period for which the expenses may be paid or reimbursed may not exceed "four days," except that the period may not exceed "two days" in the circumstance where a member is moving from a duty station in the continental United States to an overseas duty station.

The legislative history of the provision indicates that it was intended that total reimbursement for a family would be limited to \$440, or \$220 in the case of a family moving to

^{2/} Public law 97-60, § 122, October 14, 1981, 95 Stat. 989, 1002.

an overseas duty station.^{3/} The statutory language directs that reimbursement is for expenses "incurred by the member and the member's dependents" for 4 days, or 2 days in the case of an overseas move, and we have found nothing in the terms of the statute or its history which would preclude applying the statute in the manner suggested. Hence, we have no objection to the proposed change in the regulations.

The question presented is answered accordingly.

for 
Comptroller General
of the United States

^{3/} S. Rep. No. 146, 97th Cong., 1st Sess. 12, reprinted in 1981 U.S. Code Cong. & Ad. News 1484, 1495; and H.R. Rep. No. 265 (Conf.), 97th Cong., 1st Sess. 28, reprinted in 1981 U.S. Code Cong. & Ad. News 1550, 1557.